THE HONOURABLE Dr. JUSTICE G. YETHIRAJULU

WRIT PETITION No.29917 of 1998

Dated: 05.07.2006

Between:

K. Ayyappa .....Petitioner

AND

A.P. State Road Transport Corporation,
represented by its Managing Director,
Mushirabad, Hyderabad-20 and others .....Respondents

THE HONOURABLE Dr. JUSTICE G. YETHIRAJULU

WRIT PETITION No.29917 of 1998

ORDER:

The petitioner filed this writ petition seeking to declare that the action of the respondents'-Corporation in not counting the service of the petitioner from 27.11.1967 to 19.10.1982 for the purpose of retirement benefits and payment of gratuity as illegal and arbitrary and to issue a direction for release of all consequential benefits.

It is represented by the learned Counsel for the petitioner that the respondents denied the benefits for the period mentioned above on the ground that the record pertaining to that period is not available.

The counter filed by the respondents discloses that the petitioner was appointed as Retainer Driver on 25.11.1967 at Guntur Depot and subsequently, he was treated as Apprentice Driver with effect from 29.05.1968. The services of the petitioner were regularized with effect from 01.01.1969 and he was retired from service on 01.07.1997 on attaining the age of superannuation. The respondents mentioned that due to non- availability of Service Record and Leave Cards for the period from 01.01.1969 to 19.10.1982, the gratuity and terminal benefits were calculated for the period from 20.10.1982 to 31.07.1997 (date of superannuation) and paid to the petitioner.

The non-availability of record is not the mistake of the petitioner. The concerned authorities are expected to preserve the service record of the employee at the respective places and in the event of non availability of record, the necessary rules have to be applied to

calculate the service of the petitioner as mentioned in paragraph No. 3 of the counter and to release the terminal benefits to him. They are not expected to deny the terminal benefits on the simple ground that the service record is not available.

The writ petition is accordingly allowed. The first respondent is directed to calculate the service benefits of the petitioner for the period from 25.11.1967 as Retainer Driver and from 29.05.1968 to 01.01.1969 as Apprentice Driver and from 01.01.1969 as a regular driver and pay the gratuity, provident fund and other terminal benefits payable to him according to law within a period of three months from the date of receipt of a copy of this order. The first respondent is also directed to pay the interest at the rate of 9% per annum on the amount payable to the petitioner from the date of retirement till the date of the payment. No costs.

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Dr. G. YETHIRAJULU,J

DATED:05.07.2006
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